

AUG 16 2006

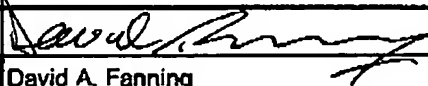
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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/053,390	
	Filing Date	January 16, 2002	
	First Named Inventor	Stephen F. Gass	
	Art Unit	3724	
	Examiner Name	Ghassem Alie	
Total Number of Pages in This Submission	7	Attorney Docket Number	SDT 319

ENCLOSURES (Check all that apply)		
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AUG 16 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of
STEPHEN F. GASS and J. DAVID FULMER

Date: August 16, 2006

Serial No.: 10/053,390

Examiner Ghassem Alie

Filed: January 16, 2002

Group Art Unit 3724

For: CONTACT DETECTION SYSTEM FOR POWER EQUIPMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

REPLY BRIEF

1. Real party in interest.

The real party in interest is identified in the Appeal Brief.

2. Related appeals and interferences.

An update of the prior and pending appeals listed in the Appeal Brief follows:

1. Appeal of application serial number 09/929,227 (fully briefed).
2. Appeal of application serial number 09/929,238 (fully briefed).
3. Appeal of application serial number 09/929,242 (fully briefed).
4. Second appeal of application serial number 09/929,426 (appeal brief due October 1, 2006).
5. Appeal of application serial number 10/100,211 (fully briefed).
6. Appeal of application serial number 10/189,027 (appeal brief filed, awaiting examiner's answer).
7. Appeal of application serial number 11/098,984 (appeal brief due August 30, 2006).

Applicant has also filed appeals in applications 09/929,221, 09/929,240, 09/929,425, 10/189,031, 10/243,042 and 10/292,607, but those applications have either been allowed or prosecution has been reopened, so the appeals are no longer pending. Applicant identifies these prior appeals because the applications involved may be related to the present application.

3. Status of claims.

The statement of the status of the claims is in the Appeal Brief.

4. Status of amendments.

All amendments have been entered.

5. Summary of claimed subject matter.

The claimed subject matter is summarized in the Appeal Brief.

6. Grounds of rejection to be reviewed on appeal.

Applicant notes that the examiner has withdrawn the enablement rejection of claims 1 and 24-29 under 35 USC 112, first paragraph. The remaining grounds of rejection presented for review are set forth in the Appeal Brief.

7. Argument.

One of the reasons the obviousness rejection of claim 1 should be reversed is because Kashioka (US Patent 5,921,367) is non-analogous art. The examiner, however, said Kashioka is analogous because "Kashioka's safety system utilizes the same concept to protect a person from injuries as the safety system in the instant application or Friemann." (Examiner's Answer, 8.) That is incorrect; Kashioka does not use the same concept as the safety system in the present application or in Friemann. Kashioka discloses a system to detect *proximity* of a hand to rollers in a rubber

kneading machine, and that is different than detecting *contact* between a person and a dangerous portion of a woodworking machine. Proximity detection systems work to avoid injuries while a contact detection system works to minimize the severity of injuries. Proximity detection systems also have more time to work because contact has not yet occurred. Additionally, a sensor designed to detect proximity must be able to detect much smaller changes in capacitance than a contact detection system, and as a result, a circuit used to sense contact would be different than a circuit to detect proximity.

The conclusion that Kashioka is non-analogous art is supported by the fact that the examiner has not cited a single reference that equates detecting contact with detecting proximity. In fact, the examiner has not cited a single reference that even discusses the two together – the references either discuss contact detection exclusively, such as in Friemann (US Patent 3,858,095), or they discuss proximity detection exclusively, such as Kashioka. That indicates that persons of skill in the art consider the two types of systems to be different. There simply is no support for the examiner's position that Kashioka is analogous art because it "utilizes the same concept."

The examiner also said, "Appellant's argument that Koshioka [sic] is not reasonably pertinent to the problem addressed by appellant, because Koshioka's rubber kneading machine does not teach a contact between a person and dangerous portion of a woodworking machine, is not persuasive." (Examiner's Answer, 8.) The examiner's reasoning behind this statement is difficult to follow, but he seems to be saying that Kashioka should be considered because it "teaches a rotary tool and the concept of detecting a contact between a dangerous portion of the rotary tool and a person." (Examiner's Answer, 9.) Again, Kashioka does not teach the concept of detecting

contact, as explained in the prior two paragraphs. Moreover, a person working on a contact detection system for a woodworking machine would not think to look to a rubber kneading machine with a proximity detection system because of differences in purpose, structure, function, operation and danger between the two machines. The situation at hand is directly analogous to the situation in In re Clay, 966 F.2d 656, 659, 23 USPQ 1058 (Fed. Cir. 1992), in which the Federal Circuit ruled that a person working on the problem of petroleum storage would not think to look to petroleum extraction methods because of differences in purpose, structure, function and operation.

Another reason the obviousness rejection of claim 1 should be reversed is because none of the cited references disclose or suggest the limitation of sampling a signal a plurality of times within 200 microseconds. The examiner admits that the cited references fail to disclose this limitation, but he says Kashioka "teaches that the signal is sampled a plurality of times within a period of time," and sampling within 200 microseconds is simply a result effective variable. (Examiner's Answer, 10-11.) This, too, is incorrect, as explained in the Appeal Brief on pages 18 and 19. The limitation concerning 200 microseconds is not simply a result effective variable, and Kashioka does not teach sampling a signal a plurality of times within a certain period of time. Applicant points out that the examiner did not offer any support or reasoning to explain why he thinks sampling a signal a plurality of times within 200 microseconds is a result effective variable, other than to say "sampling of the signal (the first and second signals) could be performed within 200 microseconds." (Examiner's Answer, .11.) The fact that something "could be done" does not mean it is obvious to do it.

The examiner and applicant also disagree as to whether Friemann discloses a first electrode coupled to a person. The examiner now says the ground or earth on which a person stands is the first electrode. (Examiner's Answer, 11.) Clearly, the earth is not an electrode as specified in applicant's claim 1, and the examiner has not cited any support for the conclusion that a person of skill in the art would consider the earth an electrode as recited in the claim.

The examiner did not respond to applicant's argument that there is no suggestion to combine the references. This is a significant point because the lack of a suggestion to combine reference is by itself sufficient to reverse the obviousness rejection. See, e.g., In re Rouffet, 149 F.3d 1350, 47 USPQ2d 1453 (Fed. Cir. 1998).

The examiner also did not respond to applicant's arguments concerning each of claims 25-29. For example, the examiner did not rebut the arguments that Hokodate (US Patent 6,150,826) is non-analogous art, that Hokodate fails to teach or suggest claim limitations, or that there is no suggestion to combine Hokodate with other cited references.

8. Claims appendix.

The claims are set forth in the Appeal Brief.

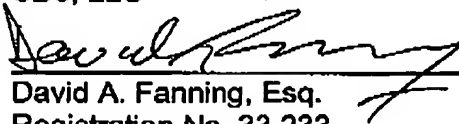
9. Evidence appendix.

None.

10. Related proceedings appendix.

None.

Respectfully submitted,
SD3, LLC



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Date: August 16, 2006


David A. Fanning